OFFICIAL FILE ILLINOIS COMMERCE COMMISSION

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ILLINOIS COMMERCE COMMISSION

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) STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

CHIEF CLERK'S OFFICE

DEPARTMENT OF TRANSPORTATION, STATE OF ILLINOIS,

TLLINOTS

Petitioner

Case No. 00-0207

vs.

Parcel 19G 0038-A Parcel 19G 0038-B

NORTH SHORE GAS COMPANY, an Illinois corporation,

STATE OF

COUNTY OF COOK

Respondent.

Petition for approval of the taking or damaging of certain properties in Lake County, Illinois by exercising the right of eminent domain.

PETITION FOR APPROVAL TO TAKE PROPERTY

TO THE ILLINOIS COMMERCE COMMISSION:

Petitioner, DEPARTMENT OF TRANSPORTATION, STATE OF ILLINOIS, a Department of the State Government of Illinois, by JAMES E. RYAN, Attorney General of the State of Illinois, and John T. Kennedy, Special Assistant Attorney General, and Michael J. Halpin, Assistant Attorney General, pursuant to Section 5/7-102 of the Eminent Domain Act of Illinois (735 ILCS 5/7-102), requests approval of the Illinois Commerce Commission for the taking and damaging of certain properties owned by Respondent NORTH SHORE GAS COMPANY, an Illinois corporation, a public

utility subject to the jurisdiction of the ILLINOIS COMMERCE COMMISSION, and respectfully states:

- That pursuant to Articles 2 and 4 of the Illinois Highway Code, (605 ILCS 5/2-101 to 5/2-220 and 5/4-101 to 5/4-512and all other applicable provisions of said Illinois Highway Code), Petitioner is engaged in the construction, improvement, locating, relocating, reconstructing, extending, widening, straightening, resurfacing, repairing, and maintaining of F.A.P. 344 (U.S. Rt. 45) from Illinois Route 137 to Illinois Route 176 in Lake County, Illinois, a State highway under the control and jurisdiction of Petitioner; and that for such purposes, and the providing of natural deposits and road materials therefor, said highway has been surveyed, laid out, and projected over certain lands and premises situated in Lake County, Illinois; and that said lands and premises, which are the subject of the petition, are in the Section of U.S. Rt. 45 from Illinois Route 137 to Illinois Route 176 in Lake County, Illinois, which is concerned with the widening and resurfacing of F.A.P. 344 (U.S. Rt. 45) in Lake County, Illinois.
- 2. Under the Illinois Highway Code, F.A.P. 344 (U.S. Rt. 45) from Illinois Route 137 to Illinois Route 176 in Lake County, Illinois is a part of and included in the State Highway System.
- 3. Section 5/4-501 of the said Illinois Highway Code (605 ILCS 5/4-501 provides:

"The Department, in its name, or any county may acquire the fee simple title, or such lesser interest as may be desired, to any land, rights, or other property necessary for the construction, maintenance or operation of State highways, or necessary for locating, relocating, extending, widening or straightening any State highway, or necessary for locating, relocating, extending widening or straightening an existing street or for laying out, establishing or opening a new street within the corporate limits of any municipality which has been designated by the Department as a street to form a part of or to connect with a State highway limits leading up to the corporate municipality, or necessary for any other purpose or use contemplated by this Code by purchase or by the exercise of the right of eminent domain under the eminent domain laws of this state and the Department shall not be required, in any case, to furnish bond."

- 4. That the lands, rights or other property hereinafter described are private property, and the persons hereinafter mentioned in connection therewith are, so far as appears of record, and so far as Petitioner has been able to learn, the persons who own, or otherwise are interested in the same or claim to have some interest therein.
- 5. That the improvement aforesaid is a public work, for public use and constitutes a public purpose, namely a public highway; that it is necessary Petitioner have and acquire for the use of the People of the State of Illinois for highway purposes, the lands, rights or other property hereinafter described.
- 6. The Respondent NORTH SHORE GAS COMPANY is a public utility as defined in the Public Utilities Act, 220 ILCS 5/3-105, is engaged as a public utility within the State of Illinois, and

is subject to the jurisdiction of the Illinois Commerce Commission.

- 7. The Respondent NORTH SHORE GAS COMPANY holds fee simple title to certain real property sought to be acquired, said property being located in Lake County, the legal description of which is attached hereto and marked as Exhibit "A" and Exhibit "B". This real property is located at or adjacent to U.S. Rt. 45 from Illinois Route 137 to Illinois Route 176, at Peterson Road, in Lake County, Illinois. Petitioner seeks to acquire fee simple title. A copy of the Department's Plat of Highways depicting the property sought to be acquired by the Petitioner is shown on Exhibit "C" and Exhibit "D" attached hereto.
- 8. That Petitioner is authorized under provisions of the Illinois Highway Code, (605 ILCS 5/4-501 and all other applicable provisions of said Illinois Highway Code) subject to the approval of the Illinois Commerce Commission, to acquire the fee simple title, or such lesser interest as may be desired, to Parcel 19G 0038-A, legally described in Exhibit "A" attached hereto, and Parcel 19G 0038-B, legally described in Exhibit "B" attached hereto, and to the lands, rights or other property necessary to this improvement.
- 9. That compensation to be paid by Petitioner for or in respect to each parcel of property sought to be appropriated or damaged for the above-mentioned purposes cannot be agreed upon, or the form of conveyance cannot be agreed upon, between

Petitioner and the parties interested therein, although Petitioner has attempted to effect such an agreement; and that Petitioner, therefore, is authorized subject to the approval of the Illinois Commerce Commission and desires to proceed to acquire said lands, rights or other property through the exercise of the right of eminent domain under the eminent domain laws of this State.

10. Section 7-102 of the Code of Civil Procedure (735 ILCS 5/7-102) requires Petitioner to obtain approval of the Illinois Commerce Commission prior to the taking or damaging of the property of Respondent NORTH SHORE GAS COMPANY described in Exhibit "A" and Exhibit "B".

WHEREFORE, Petitioner, DEPARTMENT OF TRANSPORTATION, STATE OF ILLINOIS, requests the Illinois Commerce Commission under its authority pursuant to the Public Utilities Act, 220 ILCS 5/1-102 et seq., to approve the taking or damaging of the above described real property of the Respondent NORTH SHORE GAS COMPANY by the exercise of the right of eminent domain pursuant to the Illinois Code of Civil Procedure, Eminent Domain, 735 ILCS 5/7-101 et seq., and for such other relief or order as may be equitable and just.

DEPARTMENT OF TRANSPORTATION, STATE OF ILLINOIS

By: JAMES E. RYAN Attorney General of Illinois

John T. Kennedy
Special Assistant

Special Assistant Attorney General Michael J. #1pin

Assistant Attorney General

Reviewed and Approved for filing:

Keith E. Letsche, Chief Land Acquisition Bureau Assistant Attorney General

I, John T. Kennedy, being first duly sworn, depose and state that I am a Special Assistant Attorney General for the State of Illinois, that I have read the above and foregoing Petition by me subscribed, have knowledge of the contents thereof, and that on information and belief the contents are true in substance and in fact.

John T. Kennedy, Special Assistant Attorney General

Subscribed and sworn to before me this 15 th day of

Netary Public

OFFICIAL SEAL
ALICE W AIKENS

MY COMMISSION EXPIRES:02/22/02

James E. Ryan, Illinois Attorney General Michael J. Halpin, Assistant Attorney General Office of the Attorney General-Land Acquisition Bureau 100 W. Randolph Street, 12th Floor Chicago, Illinois 60601 (312) 814-5470

John T. Kennedy Special Assistant Attorney General 500 Davis Street, Suite 701 Evanston, Illinois 60201 (847) 425-1115

CERTIFICATE OF ATTORNEY

I certify that on February 29, 2000, I served this Petition for Approval to Take Property by mailing a copy, with all attachments, to each of the following persons by U.S. certified mail, return receipt requested, to each of the following:

That Kamery

DONNA M. CATON, Chief Clerk Illinois Commerce Commission 527 East Capital Avenue Springfield, Illinois 627094-9280 (original and four copies)

NORTH SHORE GAS COMPANY c/o Peter Kauffman, Registered Agent 130 East Randolph Drive Chicago, Illinois 60601

Name: John T. Kennedy

Special Assistant Attorney General

Attorney for: Plaintiff

Address: 500 Davis Street, Suite 701

City: Evanston, IL 60201 Telephone: (847) 425-1115

Owner: North Shore Gas Company Route: FAP 344 (US Route 45)

Section: County: Lake

Job No. : **R91-019-91** Parcel No.: 0038-A

Station 6 + 171.988 To Station 6 + 278.125

Index No.: 10-12-400-004

Parcel 0038-A

'That part of the Northeast quarter of the Southeast quarter of Section 12, Township 44 North, **Range** 10 East of the Third Principal Meridian, in Lake County, Illinois, described as follows: **Commencing** at the Southeast comer of said Southeast quarter; thence on an assumed bearing of North 00 degrees 34 minutes 45 seconds West, on the **East line** of said Southeast quarter, 403.117 meters [1322.56 feet] to the South line of the Northeast quarter of said Southeast quarter; thence **South** 89 degrees 56 minutes 18 seconds West, on said South line, 12.812 meters [42.03 feet] to the West right-of-way line of U.S. Route 45 and to the point of beginning; thence continuing **South** 89 degrees 56 minutes 18 seconds West, on said South tine, 7.620 meters [25.00 feet] to a point 19.812 meters [65,00 feet] West of, as measured perpendicular to, the centerline of said U.S. Route 45 and to a 5/8" rebar with an allied cap stamped "State of Illinois Division of **Highways** ROW comer IPLSC 89"; thence North 00 degrees 38 minutes 59 seconds West, parallel with said centerline, 78.012 meters [255.94 feet] to a 5/8" rebar with an allied cap stamped "State of Illinois Division of Highways ROW corner IPLSC 89"; thence North 89 degrees 2 1 minutes 01 second East, 1.524 meters [5.00 feet] to a 5/8" rebar with an allied cap stamped "State of Illinois Division of Highways ROW comer **IPLSC 89"** and to a point that is 18.288 meters [60.00 feet] West of, as measured perpendicular to, the centerline of said U.S. Route 45; thence North 00 degrees 38 minutes 59 seconds West, parallel with said centerline, 28.125 meters [92.27 feet] to an angle point in the West right of way line of said U.S. Route 45, as dedicated by Document No. 1254335 and to a 5/8" rebar with an allied cap stamped "State of Illinois Division of Highways ROW comer IPLSC 89": thence South 06 degrees 21 minutes 37 seconds East, on said West right-of-way line, 61.264 meters [201.00 feet] to an angle point in said West right-of-way line, thence South 00 degrees 38 minutes 59 seconds East, on said West right-of-way line, 45.255 meters [148.47 feet] to the point of beginning.

Said parcel containing 580 square meters, more or less, or 0.143 acre, more or less.

March 19, 1998

970031\par0038.a

Owner: North Shore Gas Company Route: FAP 344 (US Route 45)

Section: County: Lake

Job No. : **R91-019-91** Parcel No.: 0038-B

Station 0 + 450.000 To Station 0 + 580.854 **Index No.:10-12-400-004,** 10-12-400-008

Parcel 0038-B

'That part of the Northeast quarter of the Southeast quarter of Section 12, Township 44 North, 'Range 10 East of the Third Principal Meridian, in Lake County, Illinois, described as follows: Beginning at a point on the Westerly right of way line of U.S. Route 45 as dedicated by Document No. 1254335 that is 28.956 meters [95.00 feet] West of the centerline of said U.S. Route 45 and 18.288 meters [60.00 feet] South of the centerline of Peterson Road; thence North 89 degrees 59 minutes 13 seconds West, parallel with and 18.288 meters [60.00 feet] South of the centerline of said Peterson Road, 80.855 meters [265.27 feet] to a 5/8" rebar with an allied cap stamped "State of Illinois Division of Highways ROW corner IPLSC 89"; thence North 86 degrees 29 minutes 54 seconds West, 50.093 meters [164.35 feet] to the South right of way line of said Peterson Road as dedicated by Document No. I254333 and to a 5/8" rebar with an allied cap stamped "State of Illinois Division of Highways ROW comer IPLSC 89"; thence South 89 degrees 59 minutes 13 seconds East, on said South tight of way line, 127.772 meters [419.20 feet] to the Westerly right of way line of said U.S. Route 45; thence South 45 degrees 19 minutes 06 seconds East, on said Westerly right of way line, 4.336 meters [14.22 feet] to the point of beginning.

Said parcel containing 3 18 square meters, more or less, or 0.079 acre, more or less.

'March 19, 1998

970031\par0038.b



